DIVISION OF DISABILITY AND ELDER SERVICES

BUREAU OF QUALITY ASSURANCE
1 WEST WILSON STREET
P O BOX 2969
MADISON WI 53701-2969

Telephone: 608-266-8481
FAX: 608-267-0352
TTY: 608-266-7376
www.dhfs.state.wi.us

Jim Doyle
Governor

Helene Nelson
Secretary

State of Wisconsin

Department of Health and Family Services

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To: Hospitals

HOSP 04

From: Otis Woods, Interim Director
Bureau of Quality Assurance

Security Issues in Psychiatric Treatment Facilities

DSL-BQA-98-005, dated January 26, 1998, was issued to remind hospitals of their responsibilities to provide sufficient staffing levels and adequate staff training in psychiatric treatment areas to deal effectively with disruptive and aggressive patient behaviors. DSL-BQA 00-013, dated January 6, 2000, responded to questions posed by hospitals and law enforcement personnel and replaced DSL-BQA-98-005. This memo updates and replaces DSL-BQA 00-013.

The routine presence of weapons in a psychiatric treatment facility, including firearms, pepper agents (spray and foam), and electric restraint devices (stun guns and tasers/tazers) is not acceptable. Such practice is contrary to Wisconsin Administrative Code, section HFS 94.24(1), which states:

- Treatment facilities shall provide patients with a clean, safe and humane environment…

The practice also violates section HFS 94.24(2), which states that:

- Staff shall take reasonable steps to ensure the physical safety of all patients.

The state requirement for Wisconsin hospitals is found at section HFS 124.13(1)(c)1:

- An adequate number of registered nurses shall be on duty at all times to meet the nursing care needs of the patients. There shall be qualified supervisory personnel for each service or unit to ensure adequate patient care management.

The state requirement for freestanding psychiatric hospitals in Wisconsin is found at section HFS 124.26(3)(a):

- The hospital shall have enough staff with appropriate qualifications to carry out an **active program of psychiatric treatment** for individuals who are furnished services in the facility [emphasis added].

Relevant federal requirements for hospitals participating in the Medicare program include:

- 42 CFR 482.62: The hospital must have adequate numbers of qualified professional and supportive staff to evaluate patients, formulate written, individualized comprehensive treatment plans, provide active treatment measures and engage in discharge planning.

- 42 CFR 482.13(f)(6): All staff who have direct patient contact must have ongoing education and training in the proper and safe use of seclusion and restraining application and techniques and alternative methods for handling behavior, symptoms, and situations that traditionally have been treated through the use of restraints or seclusion.

  The federal Interpretive Guideline for 42 CFR 482.13(f) includes the following:

  > CMS does not consider **the use of weapons** in the application of restraint as safe appropriate health care interventions. We consider the term "weapons" to include pepper spray, mace, nightsticks, Tazers, cattle prods, stun guns, pistols and other such devices. Security staff may carry weapons as allowed by hospital policy and state and federal law. The use of weapons by security staff is considered as a law enforcement use and not a health care intervention. CMS does not approve the use of weapons by any hospital staff as a means of subduing a patient to place that patient in restraint/seclusion.
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  > If a weapon is used by security or law enforcement personnel on a person in a hospital (patient, staff, visitor) to protect people or hospital property from harm, we would expect the situation to be handled as a criminal activity and the perpetrator be turned over to local law enforcement.
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  > Again, CMS does not consider the use of weapons as safe appropriate "health care" interventions and their use is not appropriate in the application of patient restraint or initiation of seclusion.
  >
  > Handcuffs, manacles, shackles, and other chain-type restraint devices are considered law enforcement restraint devices and would not be considered safe appropriate health care restraint interventions for use by hospital staff to restrain patients.

> The use of such devices by non-hospital employed or contracted law enforcement officers is governed by federal and state law and regulations. If non-hospital employed or contracted law enforcement officers bring a prisoner wearing handcuffs or other restraints, into the hospital for care, the officers are responsible for monitoring and maintaining the custody of their prisoner (the hospital's patient) and the officers will determine when their prisoner's restraint device can be removed in accordance with Federal and State law and regulations. This does not diminish the hospital's responsibility for appropriate assessment and provision of care for their patient (the officer's prisoner).

Although hospitals accredited by the Joint Commission on the Accreditation of Healthcare Organizations (JCAHO) are deemed to meet Medicare standards, they are not exempt from federal and state requirements.

Law enforcement or security personnel should not routinely possess weaponry in psychiatric treatment areas. The hospital is expected to work with law enforcement authorities in the community to develop alternatives to law enforcement personnel retaining their weapons during routine situations on a psychiatric unit. Wherever possible, psychiatric patients should be removed from areas where law enforcement personnel are performing official activities such as investigating crime scenes on a patient care unit.

Occasional disruptive or aggressive behavior by psychiatric patients against other patients, themselves, staff, or visitors should be anticipated and planned for. Hospitals must develop policies and procedures for the management of these special incidents. If this involves using security staff or behavioral response teams that include non-psychiatric unit staff for rare circumstances of unusual and significant threats of harm, these personnel should receive training in team stabilization and appropriate restraint methods.

The presence of weaponry on a psychiatric unit poses potential hazards to patients, both physically and psychologically. Healthcare security personnel who are assigned to work within psychiatric treatment areas may not routinely carry weapons. While it is recognized that security or law enforcement personnel who respond to rare incidents that are beyond the control of psychiatric unit staff may initially be armed, it is expected that officers will be asked to secure their weapons as soon as it is safe to do so. Weapons should be secured after an initial threat assessment (off unit when possible) determines that weapons are not needed, or as soon after control of a violent individual is established.

Law enforcement personnel should not be expected to deal with psychiatric patient management on the treatment unit. Use of armed security or law enforcement personnel should be limited to emergencies that are beyond the control of hospital staff.

When possible, teams comprised of healthcare staff, security (and/or police officers) should train together periodically to prepare for such emergencies using team stabilization methods. These

methods should be used (instead of weapons), whenever possible, during emergencies that exceed the capability of the hospital staff.

Although the use of pepper agents and electric restraint devices are commonly considered safe methods for subduing individuals, special care must be exercised when subduing persons with health care needs. Psychiatric patients are much more likely than the general population to be taking prescription medications, and may have additional medical problems, including, but not limited to, asthma, epilepsy, lung conditions, or heart conditions. Some patients may be under the influence of drugs when they are admitted, and female patients may be pregnant. The hospital must make security or law enforcement officers who respond to incidents involving psychiatric patients aware that there is a potential for unintended harm to especially vulnerable patients.

All hospitals must have adequate policies and procedures to meet applicable state and federal regulations to ensure a safe environment for the specialized needs of patients as well as staff.

Recommendations:

- Hospitals are encouraged to develop a written agreement with local law enforcement personnel to address the issue of weapons on psychiatric units.

- Hospitals may want to offer a lock box that is secured by the law enforcement officer for the storage of firearms, electric restraint devices, pepper agents, or other weaponry devices when an officer's presence is necessary on a psychiatric unit. If officers do choose to retain their weapons, the hospital should attempt to minimize any safety risks to patients.

- Where possible, hospitals are encouraged to offer a secure, off-unit area for law enforcement personnel to use in meeting with a patient in an official capacity. In these situations, the hospital should provide staff to accompany the patient during interviews with police officers.

- Hospitals may want to provide a double-door arrangement outside of the psychiatric unit, or another designated place, to exchange the custody of patients so that law enforcement personnel would not need to enter an unsecured treatment unit or relinquish their weaponry.

- Hospitals should not use law enforcement personnel to remedy a lack of adequate staff to manage patient behavior on psychiatric units.

- Hospitals should provide all staff with training regarding the Federal Conditions of Participation for Patient Rights, especially those rights regarding the use of restraint or seclusion. An excerpt from the Interpretive Guideline relating to the use of restraints under 42 CFR 482.13(f) is included on page 2 of this memorandum.

- Psychiatric staff, behavioral response teams, and security staff should be trained in team tactic stabilization.

Summary

Psychiatric unit policies and procedures, adequate staffing levels, including backup staffing, and effective training of staff to safely de-escalate and contain problem situations, are essential elements of effective inpatient psychiatric treatment. The use of security staff (contract or internal) is not a substitute for qualified patient care staff.

The routine presence of weaponry, including firearms, pepper agents and electric restraint devices, even in the possession of a trained law enforcement or security officer, is not an acceptable situation in psychiatric treatment areas. Hospitals that are out of compliance with state and federal regulations are encouraged to develop policies and procedures and to implement necessary changes. Changes *may* be indicated in physical environment, staff training in both verbal de-escalation and alternatives to restraint or seclusion, training of hospital security staff (employee or contract) in patient rights, protective equipment for staff, cross-training other hospital staff in safe restraint techniques as back-up, and/or quality assurance studies to identify staffing needs and times of increased risk.

Law enforcement representatives have informed the Bureau of Quality Assurance that enforcement personnel prefer not to be used to address routine behavioral management issues on psychiatric treatment units due to the specialized needs of the patient population. A cooperative working relationship with local law enforcement is one of the many tasks hospitals must undertake to assure the welfare and safety of patients being treated for mental illness or substance abuse. Each hospital remains responsible for working with the unique reality of their particular service area and patients.

Please share this information with appropriate staff. You are welcome to contact the Health Services Section at **(608) 243-2024** or Helen Brewster, ACSW, at **(608) 243-2089** or **brewshi@dhfs.state.wi.us**, to discuss any aspect of this matter. A law enforcement resource is Captain Steven Rogers, University of Wisconsin-Madison Police, at **(608) 265-2598** or **serogers@wisc.edu**.